natural consequences of which were to cause damage to the plaintiffs' business reputation, and there is obviously no justification. All the essential elements of tort liability are present, therefore, although it is difficult to bring the action within any existing classification. *Rice* v. *Coolidge*, 121 Mass. 393.

TORTS — LIABILITY OF A MAKER OR VENDOR OF A CHATTEL TO THIRD PERSONS INJURED BY ITS USE — NATURE AND GROUNDS OF LIABILITY — The defendant negligently allowed some poisonous matter to get into some meat which it was canning. The plaintiff bought some of this meat from a third party relying on the defendant's representations as to the purity of its products. Because the plaintiff served this bad meat to a customer his trade was injured. A demurrer to a declaration alleging these facts was sustained by the lower court. *Held*, that such ruling is error, as there was an implied warranty to all subvendees that the goods were fit. *Mazetti* v. *Armour & Co.*, 135 Pac. 633 (Wash.).

It is well settled that a warranty only runs to the warrantor's immediate vendee. *Prater* v. *Campbell*, 110 Ky. 23, 60 S. W. 918; *Post* v. *Burnham*, 83 Fed. 79; but see *Childs* v. *O'Donnell*, 84 Mich. 533, 538, 47 N. W. 1108, 1109. This strict rule as to warranties has doubtless influenced courts that have held that a vendor should not be liable in tort in cases where there is no privity of contract between the parties. The latter conclusion is clearly unsound. But courts should not go to the other extreme and hold manufacturers absolutely liable to all persons for injuries from their products. The defendant in the principal case would be liable for negligence, indeed, on principle and by the weight of authority. *Tomlinson* v. *Armour & Co.*, 75 N. J. L. 748, 70 Atl. 314; *Ketterer* v. *Armour & Co.*, 200 Fed. 322. *Contra*, *Nelson* v. *Armour Packing Co.*, 76 Ark. 352, 90 S. W. 288. Furthermore, there is a liability imposed in many states on one who makes an honest misrepresentation, in favor of one who justifiably has relied thereon, provided the former had better means of knowledge as to the truth of the statements than the party injured. *Goodale* v. *Middaugh*, 8 Colo. App. 223; *Kellogg* v. *Holm*, 82 Minn. 416, 85 N. W. 159. *Contra*, *Sims* v. *Eiland*, 57 Miss. 83. See 24 HARV. L. REV. 415, 427 *et seq.* Generally, in cases similar to the principal case, it would be difficult to prove actual reliance on express statements, such as advertisements. But as the plaintiff has alleged such reliance it would seem that on demurrer he could recover for the damage resulting therefrom. *Blood Balm Co.* v. *Cooper*, 83 Ga. 457, 10 S. E. 118. *Cf. Roberts* v. *Anheuser-Busch Brewing Ass'n*, 211 Mass. 449, 98 N. E. 95.

TRIAL — PROVINCE OF COURT AND JURY — RIGHT OF APPELLATE COURTS TO DIRECT A JUDGMENT NOTWITHSTANDING VERDICT. — The defendant at the trial of the present action requested a directed verdict which, upon the evidence presented, should have been given. The request was refused, however, and the jury found a verdict for the plaintiff. A Massachusetts statute provides that the Supreme Court under such circumstances may direct the entry of a judgment for the party in whose favor a verdict should have been directed below. The defendant, excepting to the ruling of the lower court, requested that this be done. *Held*, that the court will direct that judgment be entered for the defendant. *Bothwell* v. *Boston Elevated Ry. Co.*, 102 N. E. 665 (Mass.).

The United States Supreme Court recently denied the right to direct the entry of a similar judgment on the ground that the plaintiff's constitutional right to trial by jury required a new trial. *Slocum* v. *N. Y. Life Ins. Co.*, 228 U. S. 364, 33 Sup. Ct. 523. See article on this question by J. S. Thorndike in 26 HARV. L. REV. 732. The practical inconvenience of such a decision is obvious. The parties must undergo the annoyance and expense of a new trial though the evidence warrants only a directed verdict, and though the

plaintiff has had his day in court and has failed to produce sufficient evidence to raise a jury question. The principal case, then, seems clearly correct. *Hay* v. *City of Baraboo*, 127 Wis. 1, 105 N. W. 654.

TRUSTS — RESULTING TRUST — CONVEYANCE TO HUSBAND FOR CONSIDERATION FURNISHED BY WIFE. — A husband purchased land with money advanced by his wife for that purpose from her separate estate, taking title in himself. There appears to have been no agreement as to which should have title, nor does it appear that the wife knew that title was held by the husband until several years afterward, when he deserted her, and she filed her bill to have a trust declared. *Held*, a trust will be enforced. *Orr* v. *Orr*, 70 Legal Int. 684 (Pa. C. P., Delaware Co., Oct. 1913).

Where land is conveyed to A. upon consideration furnished by B., a stranger, a trust is presumed to result in favor of B. *Ex parte Vernon*, 2 P. Wms. 549. However, where A. is B.'s wife, for whom it is his duty to provide, the consideration furnished is presumed to be an advancement. *McCartney* v. *Fletcher*, 11 App. Cas. (D. C.) 1; *Dunbar* v. *Dunbar*, [1909] 2 Ch. 639. The same presumption applies in Pennsylvania when the person furnishing the consideration is the wife. *McCormick* v. *Cook*, 199 Pa. 631, 49 Atl. 238. Upon this presumption the result of the principal case is perhaps open to criticism, for the evidence relied on to rebut it is purely negative. By weight of authority, however, consideration furnished by a wife for a conveyance to her husband gives rise to the same presumption of a resulting trust as in the case of strangers. *Martin* v. *Remington*, 100 Wis. 540, 76 N. W. 614; *Matador Land & Cattle Co.* v. *Cooper*, 39 Tex. Civ. App. 99, 87 S. W. 235. It is submitted that the latter view is correct, for in the absence of a duty to provide, the reason for presuming a gift fails. Moreover, the ascendency which the marital relation gives to the husband renders such protection peculiarly necessary to the wife. For a criticism of these presumptions with regard to resulting trusts and a discussion of the effect of statutes relating thereto, see article by James Barr Ames, 20 HARV. L. REV. 555–557.

BOOK REVIEWS.

A TREATISE ON THE LAW OF PUBLIC UTILITIES. By Oscar L. Pond. Indianapolis: The Bobbs-Merrill Company. 1913. pp. liv, 954.

In this treatise on the special law of municipal utilities the author undertakes the ambitious task of ascertaining the nature of the municipal corporation as expressed in the law and in the construction which the courts have given to the powers conferred upon the municipality by the state, and also of discovering what limitations are placed on municipal activity by our constitutions as construed by the courts. He broadens the inquiry to discover how far the judicial construction of the law with regard to the taxation and sale of municipal public utilities facilitates or impedes the cities in the discharge of these new duties imposed by the ownership and operation or the proper regulation and control of municipal public utilities. And he enters into the discussion of what are the most efficient methods of regulation and control available to the state or municipality over the operation by private capital of municipal public utilities. Indeed, he shows throughout that he appreciates that unless the strict regulation by governmental authorities which we are trying out proves effectual, we shall be driven perforce to a further extension of governmental control to the point of municipal ownership, already reached in many communities.